

NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

750 FIRST STREET NE SUITE 1100

WASHINGTON, D.C. 20002

Phone - (202) 326-6015

Fax - (202) 408-7014

<http://www.naag.org>

LYNNE M. ROSS
Executive Director

April 25, 2003

PRESIDENT
W.A. DREW EDMONDSON
Attorney General of Oklahoma

PRESIDENT-ELECT
BILL LOCKYER
Attorney General of California

VICE PRESIDENT
WILLIAM H. SORRELL
Attorney General of Vermont

PRESIDENT'S DESIGNEE
JIM PETRO
Attorney General of Ohio

By Fax

Senator Judd Gregg
Chairman
Senate Committee on Health, Education,
Labor and Pensions
393 Russell Senate Office Building
United States Senate
Washington, D.C. 20510

Senator Edward Kennedy
Ranking Member
Senate Committee on Health, Education,
Labor and Pensions
317 Russell Senate Office Building
United States Senate
Washington, D.C. 20510

Representative Michael Bilirakis
Chairman
House Committee on Energy and
Commerce's Subcommittee on Health
2269 Rayburn House Office Building
Washington, D.C. 20515

Representative Sherrod Brown
Ranking Member
House Committee on Energy and
Commerce's Subcommittee on Health
2438 Rayburn House Office Building
Washington, D.C. 20515

Re: Pharmaceutical Pricing and Legislative Reform

Dear Senators Gregg and Kennedy, and Representatives Bilirakis and Brown:

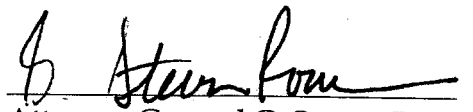
Access to affordable prescription drugs is a critical issue that commands bipartisan support among State Attorneys General. The high price of brand name prescription drugs makes many life-saving medications unobtainable for large sectors of our population. This most adversely affects the less fortunate residents of our states, especially the uninsured, underinsured and senior citizens.


The cost of a brand name drug is greatly reduced when its generic equivalent is introduced into the market. We expect that in the coming years, generic alternatives to brand name pharmaceuticals will substantially increase consumers' access to necessary pharmaceutical care. Generic alternatives will also reduce the States' Medicaid costs for prescription drug reimbursements.

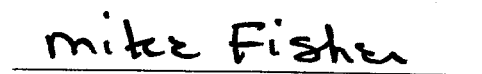
Since 1998, the Attorneys General have prosecuted numerous antitrust violations against brand name and generic pharmaceutical companies.¹ These companies have used their pharmaceutical patents to deter and foreclose generic competition. During the course of our investigations, we have observed a number of anticompetitive actions that continue to alarm us. These include:


- **Improper Use of the Courts** by brand name manufacturers, designed to delay entry by generic competitors under the 30-month stay provision of the Hatch-Waxman Act and to invoke antitrust immunity under federal antitrust laws.
- **Patent Stacking and Fraud** upon the Patent & Trademark Office ("PTO") and the Food & Drug Administration ("FDA"), in order to acquire multiple patents and improper patents, and to improperly list patents for the sole purpose of triggering 30-month stays on FDA approval of generic equivalents.
- **Anticompetitive agreements** between brand name manufacturers and their generic competitors to delay or foreclose entry of generic equivalents.
- **Collusion between generic companies**, who manipulate their 180-day marketing exclusivity under the Hatch-Waxman Act instead of bringing their products to market expeditiously.
- **False and Misleading Price Reporting** by certain generic manufacturers resulting in Medicaid over-reimbursements to pharmacists and physicians.

We support the safe and efficient availability of generic alternatives to brand name drugs, while protecting the valid intellectual property rights of the brand name drug companies. Therefore we, the undersigned Attorneys General, urge Congress to carefully examine the relationship between rising prescription drug costs and the above referenced anticompetitive behavior, and to enact legislation preserving and promoting generic competition for prescription drugs.


Attorney General G. Steven Rowe
Attorney General of Maine
PPTF² Convener

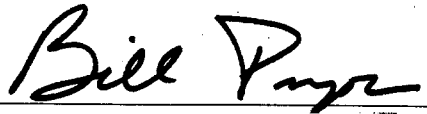

Attorney General Roy Cooper
Attorney General of North Carolina
PPTF Convener


Attorney General Mike Fisher
Attorney General of Pennsylvania
PPTF Convener


Attorney General Christine Gregoire
Attorney General of Washington
PPTF Co-Convener

¹ Some of these cases and pending settlements include: *In re Cardizem CD Antitrust Litigation*, MDL Docket No. 1278 (E.D. Mich), *In re Terazosin Hydrochloride Antitrust Litigation*, MDL Docket No. 1317 (S.D. Fla.), *In re Buspirone Antitrust Litigation*, MDL Docket No. 1413 (S.D.N.Y.) and *State of Ohio, et al v. Bristol-Myers Squibb, Co.*, 1:02-cv-01080 (EGS) (D.D.C.).

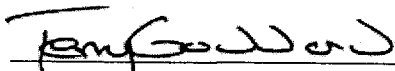
² PPTF is the abbreviation for NAAG's Pharmaceutical Pricing Task Force.



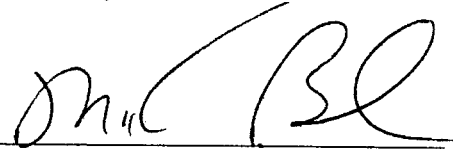
Attorney General Bill Pryor
Attorney General of Alabama
PPTF Co-Convener




Attorney General Gregg Renkes
Attorney General of Alaska



Attorney General Terry Goddard
Attorney General of Arizona



Attorney General Mike Beebe
Attorney General of Arkansas



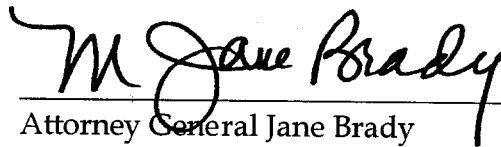
Attorney General Bill Lockyer
Attorney General of California
PPTF Co-Convener



Attorney General Ken Salazar
Attorney General of Colorado



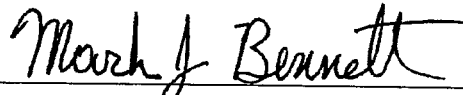
Attorney General Richard Blumenthal
Attorney General of Connecticut
PPTF Co-Convener



Attorney General Jane Brady
Attorney General of Delaware
PPTF Co-Convener



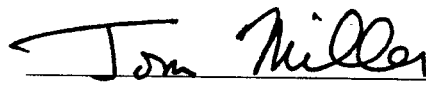
Attorney General Charlie Crist
Attorney General of Florida



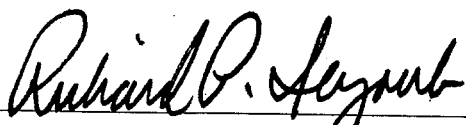
Attorney General Mark Bennett
Attorney General of Hawaii



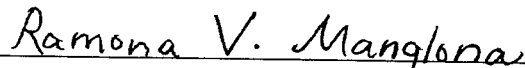
Attorney General Lisa Madigan
Attorney General of Illinois
PPTF Co-Convener



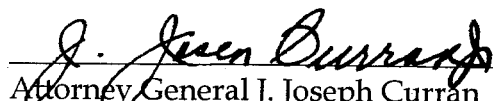
Attorney General Tom Miller
Attorney General of Iowa
PPTF Co-Convener

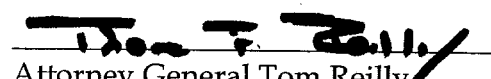



Attorney General Richard P. Ieyoub
Attorney General of Louisiana




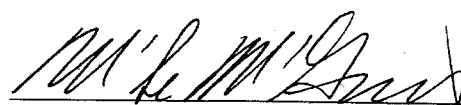
Attorney General Ramona V. Mangiona
Attorney General of N. Mariana Islands



Attorney General J. Joseph Curran
Attorney General of Maryland

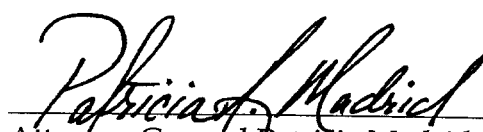

Attorney General Tom Reilly
Attorney General of Massachusetts

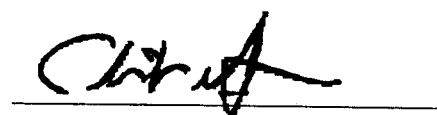

Attorney General Mike Hatch
Attorney General of Minnesota

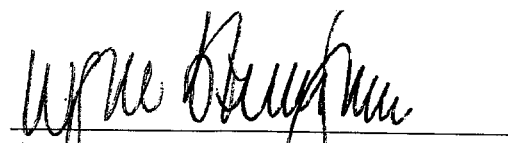

Attorney General Jeremiah W. Nixon
Attorney General of Missouri

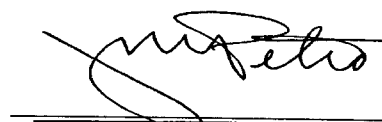

Attorney General Mike McGrath
Attorney General of Montana



Attorney General Brian Sandoval
Attorney General of Nevada

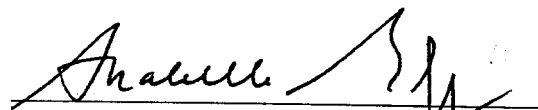

Attorney General Patricia Madrid
Attorney General of New Mexico

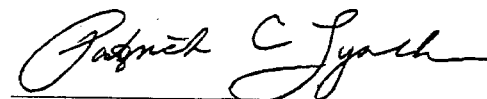

Attorney General Eliot Spitzer
Attorney General of New York



Attorney General Wayne Stenehjem
Attorney General of North Dakota
PPTF Co-Convener


Attorney General Jim Petro
Attorney General of Ohio
PPTF Co-Convener


Attorney General Drew Edmondson
Attorney General of Oklahoma


Attorney General Anabelle Rodriguez
Attorney General of Puerto Rico


Attorney General Patrick C. Lynch
Attorney General of Rhode Island



Attorney General Henry McMaster
Attorney General of South Carolina



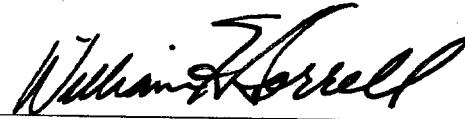
Attorney General Paul Summers
Attorney General of Tennessee



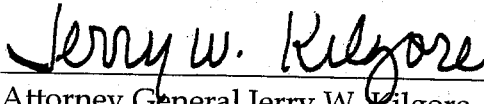
Attorney General Greg Abbott
Attorney General of Texas



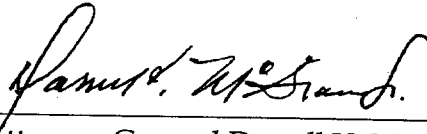
Attorney General Mark Shurtleff
Attorney General of Utah
PPTF Co-Convener



Attorney General William H. Sorrell
Attorney General of Vermont



Attorney General Jerry W. Kilgore
Attorney General of Virginia
PPTF Co-Convener



Attorney General Darrell V. McGraw Jr.
Attorney General of West Virginia

cc: Senator Bill Frist - Majority Leader
Senator Tom Daschle - Minority Leader
Representative J. Dennis Hastert - Speaker of the House
Representative Nancy Pelosi - Minority Leader

Members of the Senate Committee on the Judiciary's Subcommittee on Antitrust,
Competition and Business and Consumer Rights

Members of the Senate Committee on Health, Education, Labor and Pensions

Members of the House Committee on Energy and Commerce's Subcommittee on
Health

Members of the House Committee on the Judiciary's Subcommittee on Courts,
the Internet, and Intellectual Property